



Honduras

Country Reports on Human Rights Practices - [2002](#)

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Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. The multiparty political system is dominated by two traditional parties, the Nationalists and the Liberals. In November 2001, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. A 1999 constitutional amendment established direct civilian control over the armed forces through a civilian Minister of Defense. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In 2001 the Organic Law of the Armed Forces solidified civilian control over the military, a process that took a decade. The National Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The Ministry of Public Security oversees police operations, and the police are responsible for all public security issues. The military are authorized to support law enforcement activities with police upon presidential directive. During the year, nearly half of all military personnel were assigned continuously to joint patrols with police to prevent and combat high levels of criminal and gang activity. The civilian authorities maintained effective control of these joint security forces. The police committed most human rights abuses during the year; however, the military committed abuses in the past.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 6.5 million. Approximately 33 percent of the labor force works in agriculture, followed by 24 percent in commerce, and 15 percent in manufacturing. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry and remittances from citizens living abroad, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. Economic growth remains muted due to record low worldwide coffee prices and sluggish activity in the maquiladora sector. The Central Bank estimated growth for the year at 2.0 percent. About two-thirds of the country's households live in poverty, and 40 percent of the population lives on less than \$1.00 per day.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the police committed extrajudicial killings. Well-organized private and vigilante security forces were believed to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbitrary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remained harsh, and detainees generally did not receive due process. There was considerable impunity for members of the economic, military, and official elite. A weak, underfunded, and often corrupt judicial system contributed to human rights problems. Although the courts considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were few, if any, convictions. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted some military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. With the full implementation of the new Criminal Procedures Code and an oral accusatory system, lengthy pretrial detention in new cases was less common than in the past; however, cases from previous years remained subject to delays. On occasion the authorities conducted illegal searches. Other human rights problems included violence and discrimination against women, child prostitution, abuse of children, discrimination against indigenous people, and trafficking in persons. The Government did not enforce effectively all labor laws. Many workers in the private sector were forced to work unpaid overtime. Child labor was a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector. Honduras was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by government agents; however, members of the security forces were suspected of direct involvement in approximately 24 of the estimated 1,250 extrajudicial, arbitrary, and summary killings of youth under age 22 and minors from 1998 to June.

There was a slight improvement in the Government's ability to investigate or prosecute suspects in the killings of children and youth. According to the nongovernmental organization (NGO) Casa Alianza, information on murders collected from press reports show that the average number of killings of children and youth through June increased by 16 percent over the first 6 months of 2001, rising from 197 to 230 murders. During the first 6 months of the year, the average number of killings of children by firearms increased 46 percent from 52 minors in 2001 to 76 in 2002. During the year, no perpetrator was identified in an average of 60-70 percent of the killings; gangs were suspected in 15-20 percent of killings; police, private guards, or neighborhood vigilante groups were suspected in 5 percent of killings, and 10-15 percent of killings were drive-by shootings usually involving a truck, often without license plates. A majority, but by no means all, of the victims were gang members. According to Casa Alianza, 549 children and youth age 23 and under were killed during the year.

In April unknown persons killed two youths and an adult in a sugar cane field outside San Pedro Sula after they were forced into a gray pickup by six heavily armed men dressed in bullet proof vests and showing police identification. One of the youths was suspected by police of gang activity. On May 12, assailants armed with AK-47s who were driving a red pickup in Tegucigalpa, shot and killed two youths, ages 18 and 21, with no known gang or criminal background and wounded three other persons. On September 25, a group of armed men in a pickup murdered five youths in Tegucigalpa, mimicking a 1995 torture and murder of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (see Section 1.c.).

In a January report on violent deaths of children and youths, the National Human Rights Commission, an autonomous government agency, reviewed the evidence and interviewed youths in detention who had been threatened or who had survived an attempted killing. Those who survived attacks identified the perpetrators as police or as heavily armed older men in vehicles who would either confuse the victims with gang signs or ask victims to take off shirts to show whether the victims had gang-related tattoos. In early September, the Ministry of Public Security established a special investigative unit on child murders to follow through on cases. Casa Alianza provided information on 15 cases of murders of minors in which police were suspected of involvement. As a result of the investigations, in October the authorities arrested Walter Enrique Moncada Duarte, a former policeman, for the 1999 murder of minor Alexander Reyes. In September the IACHR Special Rapporteur for Children visited the country to review the situation of extrajudicial, arbitrary, and summary killings of youths and children. In September the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a report based on her August 2001 visit that claimed that security forces were involved in covering up their involvement in some of the summary killings of youth and children, and that some of the murders involved police. In October a special inter-agency Presidential Commission, consisting of the Ministry of Justice and Government, the Attorney General, the Institute for Family and Children, the Human Rights Commission, and the nongovernmental Institutional Coordinator of Child Rights Group issued a report that identified 574 cases of summary killings of minors and 18-year-olds, of which 140 occurred in the first half of the year and 276 occurred in 2001. Despite increased attention to the problem by the Government, perpetrators of killings against youth and minors continued to act with impunity.

Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders with regard to these murders. The Ministry of Public Security, which was the focus of human rights criticism, publicly denied accusations that the police force as a whole was involved in extrajudicial killings, although it acknowledged that individual police had been investigated for participation in extrajudicial killings.

In September the Director of Internal Affairs of the police force announced that she would continue investigating high-level officials whom she alleged had been involved either directly or indirectly in at least 20 extrajudicial killings, not necessarily of youths, over the previous 4 years (see Section 1.c.). During the year, the authorities sought or detained a number of police officials for their involvement in the killings of various individuals, some of whom were minors. There is an outstanding arrest warrant for police officer Juan Carlos Bonilla who is wanted for suspected involvement in an extrajudicial killing. At year's end he had not been arrested.

On August 26, presumed members of an organized crime gang, the Barrera Herrera brothers, killed human rights activist Jose Santos Callejas, treasurer of the local office of the national NGO Human Rights Committee, in his home near the city of La Ceiba. Preliminary investigations indicated that the gang had threatened Callejas after he positively identified them to the police as having committed a murder. Police authorities and the Human Rights Committee were investigating the involvement of individual police officers in Callejas' killing. At year's end, no suspects had been captured.

In May a minor died in custody, supposedly of asthma. He showed signs of mistreatment, and there was no autopsy. The

Ministry of Public Security reported that the minor had been in the custody of the Public Ministry. No action had been taken by the end of the year. In May prison guards shot and killed three prisoners during a prison riot between gangs and the regular prison population in Choluteca. There were a number of other deaths due to prison violence (see Section 1.c.).

There were no developments in the February 2001 murder case of the son of a Potrerillos, Cortes department, mayoral candidate and his friend.

There was no more information on the November 2001 case of police involvement in the killing of the Chorti indigenous person Isidro Geronimo during a demonstration.

At year's end, no suspects were under arrest for the November 2001 murder of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

In April the courts sentenced policeman Cesar Montoya to 6 year's imprisonment for the January 2000 killing of 17-year-old Edie Donaire. Police agents illegally detained the boy, handcuffed him for 2 days, and shot him in the legs when he attempted to escape. He then bled to death. This was the first sentence imposed for the murder of a minor since tracking of the youth killings began in January 1998. However, Casa Alianza protested what it alleged was a light sentence. In September the courts sentenced a policeman to 24 years in prison for the 1995 rape and murder of a 14-year-old street child. These two sentences signaled a reversal in the trend of impunity for police officials in extrajudicial killings.

Approximately 20 active and former military and police officials continued to face criminal charges on human rights abuses during the 1980s in various courts during the year. Most officials were accused of illegal detention and murder because disappearance is not a crime under the new or previous criminal codes (see Section 1.b.). Human rights abuses committed before March 1985 are adjudicated under the 1906 Criminal Code. Crimes after that date were prosecuted and judged under the new Criminal Code as revised in 1997 and 1999. Courts do not accept cases if the body of the victim has not been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court. There were no exhumations of clandestine graves during the year. Human rights organizations believed that more uncovered graves do exist; however, they need to have sufficient evidence to identify the buried bodies in suspected graves to improve the likelihood of successful prosecution. Human rights organizations continue to seek information using grass-roots contacts and other sources outside the government that would lead to exhumations that would advance prosecutions.

In May and July, police arrested Jose Angel Rosa and Jorge Adolfo Chavez Hernandez, a former member of Battalion 3-16, for the 1998 murder of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. The arrests occurred after both the prosecuting attorney and judge in the case received death threats. In May the local judge resigned from the court because of these death threats. At the end of the year, former security official Jose Marcos Hernandez Hernandez and two other suspects remained at large. One other suspect in the murder, Oscar Aurelio "Machetillo" Rodriguez Molina, remained in prison at year's end.

Various witnesses, survivors, and former HOAF personnel charged that members of the now-disbanded army Intelligence Battalion 3-16 kidnaped, tortured, and killed many of the 184 persons who disappeared during the 1980s. The Public Ministry was not able to bring new cases to court due to lack of evidence (see Section 1.b.).

There was no action in the 1988 political murders of social activists Miguel Angel Pavon and Moises Landaverde; in 2000 a court issued an arrest warrant for suspect Jaime Ramirez Raudales, also known as Jaime Rosales, a former member of Battalion 3-16; however, he remained at large at year's end. Mario Astrubal Quinonez, another suspect in the murders, was presumed dead after a 1998 hurricane swept away the neighborhood where he lived.

The 1982 case of Nelson MacKay Echevarria and Miguel Francisco Carias is one of the best-documented cases and includes witnesses; however, charges against both of the retired officials accused in the case were dropped. In 2001 a judge dismissed charges against retired Colonel Alexander Hernandez Santos due to insufficient evidence for the illegal detention and murder of MacKay, as well as charges stemming from the kidnaping of Carias, who was found alive next to MacKay's corpse (see Section 1.c.). In January Hernandez Santos was released from prison when charges in the Avilez and Espinoza case were dismissed temporarily and charges in the illegal detention and attempted murder of six university students were reduced (see Section 1.c.). Charges against retired Major Manuel de Jesus Trejo Rosa were dismissed and Trejo Rosa was released from prison in 2001.

No information was available regarding the Public Ministry's appeal to reinstate charges against retired General Daniel Bali Castillo and retired Colonel Manuel Enrique Suarez Benavides for the 1982 deaths of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz. In January Alexander Hernandez Santos, also wanted for involvement in the murders, was freed on bail due to a lower court's decision. In May the appeals court overturned the lower court's decision and reissued an arrest warrant for Hernandez Santos, who was also implicated in the MacKay murder and the kidnaping of six university students (see Section 1.c.). At the end of the reporting period, Santos remained at large. In early May, the Choluteca district court reissued a 1996 arrest warrant for Juan Evangelista Lopez Grijalba, but subsequently rescinded it in late May for lack of evidence. The Public Ministry appealed the decision, but the appeals court upheld the lower court's decision. The Public Ministry then appealed the appeals court ruling to the Supreme Court, where it was pending at year's end. The case against former police Major Marco Antonio Matute Lagos was dismissed for lack of merit in 1999.

Former security officials Jose Marcos Hernandez Hernandez, Dimas Carvajal Gomez, German Antonio McNeill Ulloa, and Juan Blas Salazar Meza remained in custody during the year to begin trial proceedings for the 1982 murder of student activist Luis Manuel Figueroa in Choluteca department. On April 22, Salazar Meza turned 60 and thus was eligible to be transferred to house arrest. He was released from prison after paying a \$3,000 (50,000 Lempiras) fine on an unrelated drug trafficking conviction. The case went to full trial review, and the four officials were awaiting sentencing at the end of the year. Salazar Meza also was questioned for his involvement in the kidnapping of six university students (see Section 1.c.).

In the July 1982 murder case of university student Hans Madisson, the Public Ministry requested that the Canadian Government provide testimony of witnesses who had fled the country and applied for asylum in Canada. At year's end, the Public Ministry had not received a response to the request for further DNA testing to identify positively the body and to continue the case against Captain Billy Joya Amendola, which was dismissed for lack of evidence in May 2001. There was no information available regarding the Public Ministry's appeal of a 1999 ruling by a lower court that found former army Chief of Staff Oscar Hernandez Chavez not guilty in the same case.

During the year the Public Ministry charged Jose Barrera Martinez, a witness in cases related to Billy Joya Amendola and Alexander Hernandez Santos, with providing false testimony. Barrera rescinded his original written testimony regarding clandestine graves and human rights cases, which he used to request asylum in Canada. When Barrera was deported from Canada in 2001, he declared that his original testimony was false, even though that information led to the uncovering of clandestine gravesites.

Violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. During the year there was an average of 3 to 10 violent deaths per day. Vigilante justice led to the killing of known and suspected criminals, as well as of youth in gangs, street children, and youth not known to be involved in criminal activity (see Section 5). Neighborhood watch groups called Citizen Security Councils (CSCs) originally were authorized by a previous Minister of Security, and some of them were accused of taking the law into their own hands. Human rights groups criticized the CSCs, which they viewed as active participants in the increasing number of unlawful and summary killings. Human rights activists continued to state publicly their belief that some of the CSCs, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth, with the tacit complicity of the police. According to human rights groups, the CSCs with the greatest number of incidents of violent deaths committed by vigilante committees were in the municipalities surrounding San Pedro Sula. The Ministry of Public Security announced that it would work with city officials to assure that vigilante committees not operate with official support. In June the Ministry of Public Security announced that all arms, including those of private security firms, would have to be registered.

In September the Attorney General declared that violent deaths overall were 10 percent less than the previous year. He rejected the idea that death squads were involved in killing youth and children; however, he acknowledged that individual police and vigilante groups were involved in some killings.

Several "murders for hire" occurred during the year, usually related to land disputes or criminal activities. In April four landless farmers were killed and one guard was injured when the farmers attempted to take over land also claimed by a subsidiary of an international company. There was no information on the proceedings at year's end.

No more information was available regarding the 2001 murders of the Peralta Torres family, farmers' cooperative president Felix Roque, or Carlos Flores, nor the suspicious death of farmers' cooperative president Jose Antonio Santos Lopez. There were no developments in the 2000 murder cases of social activist Jairo Amilcar Ayala Nunez; community leader Ruben Elvir; forestry cooperative officials Marciano Martinez Ramirez and Victor Manuel Almendares; or of the 2000 murders of Concepcion Alvarez and his family, Copan mayor Hugo Alvarado, or the 1999 murder of Cabanas mayor Juan Ramon Alvarado—all of whom were killed in land disputes.

No more information was available on the March 2000 murders of Chorti indigenous Vicente Ramirez, Enecon Ramirez, Antonio Garcia, and Domingo Mejia.

The October 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and murder by police of four youths in 1995 remained under investigation by the Commission at the end of the year. During the year, Casa Alianza appended a 1998 case to the 1995 IACHR complaint for the torture and murder of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission.

In December the authorities reported that gang members killed at least 10 police officers during the year. On November 17, members of a gang shot and killed a police investigator near his home in Comayagua. A search led to the capture of 5 gang members in possession of a list containing the names of approximately 20 police officers that they had allegedly planned to kill in the next few days.

b. Disappearance

The law does not prohibit forced disappearance; however, there were no reports of disappearances during the year.

There were no developments in the June 2001 case of former guerrilla Rigoberto Martinez Lagos. He was seen last leaving his house in Tegucigalpa to meet a police investigative agent regarding a stolen car. According to human rights groups, when his wife called the telephone number that he had provided, she spoke with police who assured her that he would return.

In cases where significant information is available, but no body has been identified, the Public Ministry's Human Rights office attempts to uncover evidence that could lead to clandestine graves. During the year, the Public Ministry requested information on the 1988 disappearance of student activist Carlos Roberto Velasquez Ilovares from the HOAF, but the Ministry found nothing. Only a few bodies were found of the 184 persons who have been documented as disappearances. There was no change in status in the 1988 disappearance of Roger Gonzalez Zelaya or the 1981 disappearance of Jose Eduardo Lopez.

There were no exhumations during the year. The courts adjudicated some pending cases involving political disappearances from the 1980s as murders (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

The police force, which includes the Preventive Police and the Criminal Investigative Unit (DGIC), is subject to investigation by the Internal Affairs office regarding illegal activities. The Internal Affairs office reports to the Attorney General's office, where a decision is made either to prosecute the offender or to return the case to the Minister of Security for administrative action. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions. During the year, the Minister of Security moved the OPR to a limited access area, which drastically reduced the number of complaints that individuals lodged against police during the year.

The Ministry of Public Security fired more than 300 police personnel in both the DGIC and the Preventive Police for corruption, criminal activity, and abuse of authority. During the year, the Organic Police Law was enacted, which allows security officials and agents to be fired without requiring proof of incompetent, corrupt, or abusive behavior. In September the Director of Internal Affairs of the police force announced that high-level officials had been involved either directly or indirectly in at least 20 extrajudicial killings of presumed delinquents (see Section 1.a.). At the end of the reporting period, the Attorney General's office had begun bringing some cases to prosecution. During the year, the Public Ministry also investigated complaints of prison abuse.

A public feud between the Public Ministry and the Security Ministry continued to create friction. While local prosecutors were able to work in police stations, they did not always maintain good relations with the police investigators.

No more information was available regarding the three army officers who were under investigation for having beaten and threatened eight recruits in 2000.

In June 2000, the Supreme Court ruled that illegal detention and attempted murder, of which some military officials were accused, were not covered by the 1987 and 1991 Amnesty Laws, a ruling that allowed for the criminal prosecution of military officers accused of the 1982 kidnaping and torture of six university students (see Section 1.e.). As a result of the ruling, amnesty laws were no longer applicable in this case for: Alexander Hernandez Santos, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, retired Captain Billy Hernando Joya Amendola, retired General Amilcar Zelaya Rodriguez, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Colonel Julio Cesar Funez Alvarez.

In November 2001, the court reduced the charges faced by retired Colonel Alexander Hernandez Santos to illegal detention only, and dropped the charges for attempted murder, for his participation in the kidnaping and torture of six university students in 1982. In January Hernandez was released from prison; however, he is wanted in the 1982 Avilez and Espinoza murders (see Section 1.a.). At year's end, Juan Blas Salazar Meza was under house arrest and being questioned for his participation in the illegal detention of the six students. He did not qualify for bail because he was awaiting sentencing in the 1982 murder of Luis Miguel Figueroa (see Section 1.a.). At year's end, retired Captain Billy Joya Amendola was free on bail while awaiting further questioning. In May the District Attorney's office requested that the court issue arrest warrants for two retired colonels, Juan Evangelista Lopez Grijalba and Julio Cesar Funez Alvarez, in the case of the six university students, but the courts had not issued the requested arrest warrants by year's end. Retired General Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred, was under house arrest at year's end, under charges of complicity. During the year there was an outstanding arrest warrant for Roberto Arnaldo Erazo Paz. Manuel de Jesus Trejo Rosa was released on bail in 2000. Charges against Jorge Antonio Padilla Torres were dropped in 2001 due to lack of evidence. All charges against Juan Ramon Pena Paz were dropped; he was accused wrongly because he shared the same last name as another suspect.

The Public Ministry's appeal of the decision to drop charges against Alexander Hernandez Santos and Manuel de Jesus Trejo Rosa for the 1982 kidnaping of Miguel Francisco Carias was pending at year's end (see Section 1.a.).

Police occasionally used force against demonstrators; in May and in August, a number of persons were injured (see Section 2.b.).

In May the December 2001 Police and Social Order Law took effect. The new law defines the different roles of national and municipal police and describes the activities that police undertake. The law outlines when police can use force and when they should assist citizens, limits how demonstrations can be carried out (see Section 2.b.), gives authority to police to remove landless farmers who take over land, and defines public order. It allows prostitution, but outlaws brothels, madams, and pimps, while offering rehabilitation (see Section 5). The law permits police to detain gang members, drunkards, truants, and vagrants without warrants, and to fine parents who deny education to their children. During the year, police carried out two operations in June and September in which they rounded up 200-300 minors and adults loitering in the streets and detained them for a day, putting the adults to work on street cleaning. Human rights and gay rights organizations criticized the new law, alleging that it restricted freedom of assembly.

In a number of instances, the security forces actively dislodged farmers and indigenous groups from lands in dispute. Sometimes this government action was legitimate, because the National Agrarian Institute (INA) did not substantiate the farmers' and indigenous groups' claims under land reform laws or ancestral titles. In other cases, the action taken in support of local landowners who exercised undue influence over local security officials, including in some cases obtaining a legal order when the justification for the order was questionable (see Sections 1.a., 1.f., and 5).

The police forces are underfunded, undertrained, and understaffed, and corruption is a serious problem. There is widespread public frustration at the inability of the security forces to prevent and control crime. During the year, under the new administration, police and military jointly patrolled the streets and petty crime fell significantly. While gang violence and intimidation on the streets declined, gangs continued to intimidate, threaten, and rob passengers on public transportation. Kidnapings of the wealthy and well-known continued at the same rate as in 2001, but more perpetrators were identified and prosecuted compared with the previous year. While investigation into crimes improved during the year, the public continued to believe that corrupt security personnel were complicit in the high crime rate (see Section 1.a.).

The Law of the Rehabilitation of the Delinquent establishes regulations for prison conditions, including minimum conditions of sanitation and security for prisoners; however, prison conditions were harsh and prison security was poor. The Ministry of Public Security maintains prison facilities. Retired military officers work as guards in some areas, and some Preventive Police are used as guards. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. Pretrial detainees generally were not separated from convicted prisoners. The 24 penal centers held over 12,500 prisoners, more than twice their intended capacity; more than 88 percent of all prisoners were pretrial detainees (see Section 1.d.). Prison escapes, through bribery or other means, remained a frequent occurrence. In May prison guards shot and killed three prisoners in a prison riot between gangs and the regular prison population in Choluteca. About 3 percent of prisoners were thought to be gang members.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, reportedly by other gangs. In January convicted kidnaper Javier Cruz was found hanged in his cell in San Pedro Sula; a criminal court was investigating the incident at year's end. There were no developments in the two San Pedro Sula prison hangings from 2001. During the year, prison authorities continued to move prisoners of opposing gangs into different facilities to reduce intergang tensions and violence.

More often than not, for lack of alternative facilities, wardens housed the mentally ill, although there is a National Mental Hospital, and those with tuberculosis and other infectious diseases among the general prison population. In July the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using excessive force against prisoners. Practices reported include beatings, isolation, threats, electric shocks, and immersion in water.

A 2001 National University's Medical College study reported a 7 percent HIV/AIDS infection rate among prisoners. Male prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about \$0.50 (8.13 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food.

During the year, the warden of the Tela prison who was accused of abusive treatment was moved to a different position.

The NGO Human Rights Committee continued government-funded programs to train police and prison personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons. The Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and Their Families provided health and social services to prisoners in the main penitentiary in Tamara.

The Government delayed its plan for a model prison farm due to budget constraints.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges. Four percent of the prison population was female. Children up to age 2 can live

with their mothers in prison.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. Although there was a lack of juvenile detention facilities, minors were detained infrequently in adult prisons. In May a minor died of asthma while being held in an adult cell (see Section 1.a.). Casa Alianza reported that the Government responded quickly to complaints of minors in adult prisons and no longer routinely housed juvenile offenders in adult prisons. The Government and Casa Alianza agreed to earmark \$182,000 (3 million lempiras) compensatory payments under an IACHR agreement to assist juvenile offenders. Approximately 24 of the 300 juvenile offenders who served time in adult prisons from 1995 to 1999 were compensated.

There were no developments in the Casa Alianza complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1990.

The Government generally permitted prison visits by independent human rights observers. The 2001 order by the General Director of Prisons barring access to district attorneys had not been implemented by the end of the year.

d. Arbitrary Arrest, Detention, or Exile

The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally failed to observe these prohibitions. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only petty crimes. The police must bring a detainee before a competent authority within 24 hours; the judge or district attorney then must issue an initial, temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. Less stringent rules of detention apply when the police catch a suspect in a criminal act; in that case, the authorities may hold a suspect for up to 6 days before a temporary holding order is issued.

While bail is legally available, it is granted primarily for medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention was a serious problem; during the year, an estimated 88 percent of the prison population was awaiting trial and sentencing (see Section 1.c.).

The 1996 Unsented Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clog the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. In April 2000, the Government estimated that as many as 3,017 prisoners qualified for release under the Unsented Prisoner Law, that 3 officers were required to monitor each detainee, and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras). The Criminal Procedures Code that went into full effect in February limits pretrial detention to 1 year if the greatest penalty for a crime is less than 6 years and to 2 years if the penalty for the crime is 6 years or greater. The Code is not retroactive, so individuals who have already served their sentence but whose case has not been reviewed will remain in jail until the judge reviews the case. Many prisoners under the old system remained in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. The new Code allows house arrest until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the terminally ill.

Neither the Constitution nor the Legal Code explicitly prohibits exile, but it was not used as a means of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary was poorly staffed and equipped, often ineffective, and subject to corruption. While the Government respected constitutional provisions in principle, implementation was weak and uneven in practice. A number of factors limited the effectiveness of the system. Both the judiciary and the Public Ministry suffered from inadequate funding; low wages and lack of internal controls made judicial and law enforcement officials susceptible to bribery; and powerful special interests still exercised influence and often prevailed in the courts. Many elected politicians enjoy constitutional immunity due to the privilege of their office. During the year the full application of the Criminal Procedures Code and the establishment of a new Supreme Court slightly improved the judicial system.

The Constitution provides for the right to a fair trial. This right improved in practice over the year with the full implementation of the Criminal Procedures Code. The new code establishes an oral accusatory system to replace the written, inquisitorial trial system for all new criminal cases. Trials are decided by three judges, one at each stage of the trial. The new system allows for plea-bargaining and for all indigent suspects to have appointed legal counsel. The Government began oral proceedings in May. The new code works on the basis of the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without a judicial order. Since the implementation of the new code, there was some improvement in the legal system's fairness toward those charged with crimes.

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. The rights of defendants often were not observed under the 1984 Code. Under the 1984 Code, all stages of the trial process were conducted in writing and, at the judge's discretion, could be declared secret and, thus, even less public than normal. All trials are public under the new Code.

The April 2001 constitutional amendment to restructure the Supreme Court and create an independent judiciary took effect during the year. In January a special nominating committee representing 5 sectors of civil society (one representative each from labor unions, employer associations, civil society, the bar association, and the human rights ombudsman), selected 45 nominees from more than 200 applicants for a new 15-member, seven-year-term Supreme Court. The Congress then selected 15 judges from the 45 nominees, and on January 25, the magistrates took the oath of office. The Supreme Court, in turn, names all lower court judges. There are 10 appeals courts, 67 courts of first instance with general jurisdiction, and 326 justice of the peace courts with limited jurisdiction. Human rights groups expressed concern that the 8-7 split between the Nationalist and Liberal Parties on the court was not likely to depoliticize Supreme Court appointments. In May the courts were reorganized to divide case management into two systems, one following the old, written administrative court procedures, and the other following the new, oral accusatorial method of the Criminal Procedures Code. During the year, 35 percent of 140,000 pending cases under the previous procedure were dismissed or resolved; however, no system was in place to release pretrial detainees affected by the closure of these cases. Through September the new system registered 8,000 cases, of which 800 were in trial proceedings at year's end. On November 5, the Supreme Court named a new Court of Appeals in Tegucigalpa, after having ousted the entire three-member court on October 23 in the midst of allegations of corruption and impropriety. The Supreme Court also replaced judges in San Pedro Sula who were accused of corruption.

On December 4, the Supreme Court took the first step in analyzing constitutional amendments proposed by Congress that would give Congress unfettered power to interpret the constitutionality of laws that it passes. The Constitutional Chamber of the Court asked Congress to explain why it attempted to alter the Constitution in a manner that ostensibly usurped traditional judicial authority. If the amendments become effective, the judiciary will lose its authority to construe the Constitution, and Congress will be free to interpret the constitutionality of laws with a two-thirds majority vote. In November the National Human Rights Commission filed a lawsuit asking that the Supreme Court declare the proposals unconstitutional and in violation of the separation of powers provision in the Constitution.

The new Criminal Procedures Code gave the Public Ministry the responsibility to initiate criminal proceedings but left the investigative police in charge of investigations. Under the old system, which remained in effect for crimes committed before February, judges were in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, the police, public officials, and individual citizens can initiate criminal proceedings. The lack of clear duties under the 1984 code created friction between the police and the prosecutors after the establishment of the Public Ministry in the mid-1990s.

Under the 1984 code, defendants and their attorneys were not always genuine participants in the process, despite rights accorded under law. Defendants could confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys were entitled to review government-held evidence relevant to their cases, but this right was not always respected in practice. The 1999 Criminal Procedures Code, fully implemented in February, provides defendants with additional rights that reduce their likelihood of being detained, including strict timelines for actions during the criminal process, which some critics warn may reduce the conviction rate of hardened criminals. Public officials assert that the new code will reduce the number of pretrial detainees and will establish procedures so that detainees will not be held in prison beyond their maximum prison term.

A public defender program provides assistance to those unable to afford an adequate defense. There are over 200 public defenders providing free legal services nationally to 50 percent of the prison population; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. Under the Criminal Procedures Code cases can be dismissed if a suspect does not have legal representation. Of all oral trials processed during the year, 83 percent of defendants used public defenders. The demands placed on the public defender system severely overtaxed its resources.

A 1998 Supreme Court instruction held judges personally accountable for reducing the number of backlogged cases. The order separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense. It had little effect under the old system, but the new Criminal Procedures Code allows for plea-bargaining to reduce the caseload and to prioritize serious crimes for prosecution.

Modest progress was made in previous years toward implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and address problems of corruption, clientism, patronage, and influence-peddling within the judiciary. Nonetheless, many courts remain staffed by politically selected judges and by unqualified clerks who are inefficient and subject to influence from special interests. The reforms have not been implemented fully or effectively. Public accountability or official sanction for misconduct is minimal. However, the Supreme Court dismissed more than 19 judges on various charges, including corruption, during the year.

A special prosecutor and a judge investigating the 1998 murder of a town councilman reported receiving death threats (see Section 1.a.).

The Supreme Court's rulings on the 1987 and 1991 amnesty laws declared its application unconstitutional for nine military officials accused in the illegal detention and attempted murder of six university students. In 1998 the Court determined that while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits. In June 2000, the Court first ruled that laws providing amnesty protection to present and former military officials were inapplicable to common crimes, such as illegal detention and homicide, which some officials were alleged to have committed. In August 2000, the court clarified its June ruling by applying it only to the 1982 illegal detention and attempted murder of six university students (see Section 1.c.). It held that the amnesty laws would continue to apply to all military defendants until specific grounds for exclusion of amnesty were applied in that case. The general interpretation of the Court's rulings is that the accused cannot request amnesty until the case has been brought before a judge and the judge has begun deliberations. Thus, military officials may request amnesty, but only if the case has gone to trial. The Public Ministry has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

By the end of the year, the new Supreme Court had not yet ruled on the appeal by the defense to reduce charges of attempted murder brought against Alexander Hernandez in the case of the six university students. Two other officials received reduced sentences and were let out on bail when previous Supreme Courts ruled that attempted murder could not be proven, thus establishing that no one could be charged with the crime (see Section 1.c.).

The Constitution provides broad immunity to members of Congress and government officials. Membership in both the National Congress and the Central American Parliament confers legal immunity from prosecution. That immunity extends to candidates running for office and to acts committed before taking office. An April 2000 General Law of Immunities did little to foster transparency and accountability in government. In fact, the new law requires that cases of white-collar crime brought against public officials with immunity first must be adjudicated through administrative procedures before any criminal proceedings are initiated. In addition, the new law bestows immunity to citizens upon party nomination to run for public office. The law continues to require a vote of Congress to deprive an individual of his or her immunity, although such individual may be arrested if caught in the act of endangering the life or physical integrity of another. During the year, government authorities asked Congress to remove the immunity of 34 Congresspersons and Central American parliamentarians. Only Congressman David Romero was stripped of his immunity to face charges of raping his stepdaughter. A warrant was out for his arrest, but he was at large at year's end.

Over the past 8 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white collar crimes, as well as ranking officials of the three previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted. Some of these individuals maintained immunity from prosecution because they were in elected office or are running for office.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, Correspondence

The Constitution specifies that a person's home is inviolable, that persons employed by the State may enter only with the owner's consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m. There is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime. In May President Maduro decreed that kidnaping constituted an immediate threat, and that no arrest warrant was needed if the kidnaped person's life was in danger. In June as a result of a high profile kidnaping and murder, the Government decreed that searches could be executed without warrants and at any hour when someone's life was threatened. However, as in previous years, there were credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak; however, it improved when the prosecuting attorneys expanded their work day to include nights and weekends.

In a number of instances, private and public security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see Section 5). In May four farmers in Balfate, Atlantida department were killed when trying to establish a land claim on property owned by a subsidiary of a multinational company. A number of farm cooperatives experience constant threats of dislocation from local police and military authorities who support local landowners. In the past, some individuals who lost disputed lands to farmer cooperatives as a result of government adjudication killed cooperative leaders.

The Government generally respected the privacy of correspondence.

Despite reforms to the civil service system, party membership is often necessary to obtain or retain government employment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. The new Police and Social Order Law restricts demonstrators from using statements

that could incite people to riot. Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. A small number of powerful business magnates with intersecting business interests, political loyalties, and family ties own many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limit the development of the news media. For example, of the four national newspapers, one is run by a Congressman and another is run by a former Liberal Party president.

The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials, which is crucial for news reporters, editors, and media owners. Other methods are more subtle, such as the coveted privilege to accompany the President on his official travels. Journalists who accompany the President on such occasions do so at the expense of the Government, which grants or withholds invitations for such travel at will. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The comparatively little investigative journalism that took place focused on noncontroversial issues. When the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations, artificially tight reporting deadlines, and a lack of access to government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice.

The new Maduro government used the "Cadena Nacional," a complete preemption of all television and radio broadcasting, to present bimonthly presidential addresses.

One potentially abusive practice continued to be the granting of awards to individual reporters on "Journalists' Day." In May all three branches of the Government and several private organizations, including chambers of commerce, bestowed numerous awards, some accompanied by substantial sums of cash, on the "best" journalists. Rather than being tied to a specific accomplishment—a particular article or series, or even a lifetime's body of work—most awards were granted without any published criteria to beat reporters assigned to the granting institution. Some of these awards appeared to be deserved; however, many observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered.

Because President Maduro had limited ties to the media, some journalists took the opportunity to increase reporting on sensitive topics. In the past, there were credible reports of media owners' repression against individual journalists who criticized the Government, actively criticized freedom of the press, or otherwise reported on issues sensitive to powerful interests in the country. During the year there were no reports of dismissals or threats against journalists.

No more information was available on the television reporter who sued the Security Ministry over the loss of an eye in an unprovoked altercation with a police officer in 2000. No more information was available on the 2000 drive-by shooting of Radio Progreso news director Julio Cesar Pineda Alvarado, who suffered a head wound in the attack.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice; however, police used force to disperse several protests, resulting in a number of injuries.

During the year, incidents in which farmers or local populations took over roadways in Yoro, Comayagua, and Francisco Morazan departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in each incident.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

In September 2000, the Congress adopted a controversial measure requiring that, beginning in 2001, all school classes begin with 10 minutes of readings from the Bible; however, the legislation had not been put into effect.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections were held in November 2001, and on January 28, Ricardo Maduro Joest was sworn in as President for a 4-year term.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, and direct, balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the President, Congresspersons, and mayors, making individual elected officials more representative and accountable. Suffrage is universal; however, neither the clergy nor members of the military or civilian security forces are permitted to vote. In the 2001 elections, voting was expanded to include Hondurans resident in five cities in the United States, of whom only 1,000 voted. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police.

The investigation into the 2001 election-eve murder of Angel Pacheco, Nationalist Party congressional candidate from Valle department, had uncovered no suspects at year's end (see Section 1.a.).

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments. There are five recognized parties. The Democratic Unification Party was established by decree as a result of the Esquipulas peace accords.

There are no legal impediments to the participation of women or minorities in government and politics. The Government established the National Women's Institute a number of years ago to address women's issues. The 2000 Law of Gender Equality mandated that 30 percent of all candidates nominated for public office by recognized political parties be women. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the November 2001 elections. There were 5 women in the 128-seat legislature. There were nine female justices, one of whom was president, on the Supreme Court and three female ministers in the Cabinet.

There were few indigenous people in leadership positions in government or politics. There were 3 indigenous or Garifuna (Afro-Caribbean) persons in the 128-seat legislature.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

One human rights group received death threats during the year and another announced that security forces harassed its members after they spoke out in support of investigations into extrajudicial killings committed by police.

In August human rights worker Jose Santos Callejas was killed in Atlantida in a criminal assault related to his human rights activism (see Section 1.a.).

In September the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions published the report on her visit to the country to meet with government, human rights, and children's organizations (see Section 1.a.).

In March Congress chose Ramon Custodio Lopez to replace Leo Valladares Lanza as Human Rights Commissioner of the National Human Rights Commission (NHRC), an autonomous government institution. He holds a 6-year term. The NHRC

director has free access to all civilian and military institutions and detention centers and is supposed to perform his functions with complete immunity and autonomy. The Government generally cooperated with the NHRC and invited the Human Rights Ombudsman to work on interagency commissions dealing with rule of law issues.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution bans discrimination based on race or sex. The Constitution also bans discrimination on the basis of class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (see Section 1.e.).

Women

Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In February 2000, the Pan-American Health Organization reported that 60 percent of women had been victims of domestic violence. In September 2000, the U.N. Population Fund estimated that 8 of every 10 women suffered from domestic violence.

Over the year, the Public Ministry reported that it received an average of 341 allegations of domestic violence each month in the capital city of Tegucigalpa alone. In August a woman was sentenced under the new Criminal Procedures Code to 30 years for killing her abusive husband earlier in the year.

The 1997 Law Against Domestic Violence was intended to strengthen the rights of women and increase the penalties for crimes of domestic violence. In practice the law does not impose any fines, and the only sanctions are community service and 24-hour preventive detention if the aggressor is caught in the act. The Penal Code includes the crime of intrafamily violence and disobeying authorities, in the case that an aggressor does not obey a restraining order. Three years' imprisonment per incident is the maximum sentence. During the year, many cases were resolved because the Government began to fund special courts to hear only cases of domestic violence.

The Government works with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offer legal, medical, and psychological assistance, but not physical shelter.

The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if the victim does not want to press charges.

The law does not prohibit adult prostitution, but child prostitution is illegal; the law prohibits promoting or facilitating the prostitution of adults.

Women were trafficked for sexual exploitation and debt bondage (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women, who make up 36 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. Under the law, women have equal access to educational opportunities and slightly more girls complete grade school and high school than boys. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries. The Inter-Institutional Technical Committee on Gender supported gender units in five government ministries, and there is a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women.

Workers in the textile export industries reported that they were required to take preemployment pregnancy tests (see Section 6.e.).

The Government maintained the cabinet-level position directing the National Women's Institute which develops women and gender policy (see Section 3).

Children

Although the Government allocated 23.7 percent of its total expenditures for the year to basic education through the ninth grade (including salaries of teachers and administrators), funding remained insufficient to address the educational needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 13; however, the Government estimated that as many as 65,000 children ages 6 through 12 fail to receive schooling of any kind each year; of

these, almost 10,000 will never attend primary school. Slightly more girls attend primary and high school than boys, and older boys often drop out to assist their family by working. The Government increased its national school capacity by approximately 50,000 children during the year.

The Government allocated 10 percent of its total expenditure to the health sector. Media reports indicated that up to 40 percent of children under the age of 5 years suffer from chronic malnutrition. The Government estimated that 7,000 children (40 of every 1,000) under age 5 die each year because of inadequate health care.

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children. It established prison sentences of up to 3 years for persons convicted of child abuse. In the major cities of San Pedro Sula and Tegucigalpa, with a combined population of 682,400 minors, the Public Ministry received a total of 2,500 complaints of child abuse.

Child prostitution is a problem in some tourist and border areas of the country.

Child labor is a problem (see Section 6.d.).

Trafficking in children is a problem (see Section 6.f.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (see Sections 1.a. and 1.c.). The Government and children's rights organizations estimate the number of street children at 20,000, only half of whom have shelter on any given day. Many street children have been sexually molested or exploited. Approximately 30 percent of the street children and youth in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive. Over 75 percent of street children live on the streets because of severe family problems; 30 percent simply were abandoned. The Tegucigalpa city administration runs 12 temporary shelters with a total capacity of 240 children.

Abuse of youth and children in poor neighborhoods and in gangs is a serious problem. Both the police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities, but many were not (see Sections 1.a. and 1.c.). Police were found to be responsible for some of the murders of approximately 500 children, only some of whom lived on the street, who were killed summarily in "social cleansing" killings between January 1998 and August (see Section 1.a.). In April the first policeman to be sentenced for raping and killing a minor was sentenced to 24 years (see Sections 1.a. and 1.c.). Security authorities' abuse of street children decreased significantly in the late 1990s after Casa Alianza trained the Preventive Police on treatment of children and youth for 2 years; it is still a problem, although the situation has improved significantly. Casa Alianza no longer trains police recruits at the National Police Academy in La Paz department. During the year, the Human Rights Committee signed an agreement with the Ministry of Public Security to provide human rights training.

International and national human rights groups implicated public and private security force personnel, vigilante groups, and business leaders in many juvenile deaths (see Section 1.a.).

Persons with Disabilities

There are no formal barriers to participation by an estimated 700,000 persons with disabilities in employment, education, or health care; however, there is no specific statutory or constitutional protection for them. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments. In May the Honduran Coordinating Group of Institutions and Associations of Rehabilitation, 30 organizations that work with the disabled, demanded that Congress support their activities with \$3.09 million (51 million lempiras), which the Government had promised the groups earlier in the year. In 2001 the National University began providing classes in Honduran Sign Language.

Indigenous People

Some 490,000 persons, constituting 9 percent of the general population, are members of indigenous and Afro-Caribbean ethnic groups. The Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas live in 362 communities and generally have little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Most indigenous land rights are communal, providing land use rights to individual members of the ethnic group. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century. Both indigenous and non-indigenous communities have criticized the government's exploitation of timber; however, government policy over natural resources changed during the year and reportedly included greater local participation.

Land disputes are common among all sectors of society; however, the lack of clear title and property boundaries of indigenous land claims often leads to conflicts between such groups as landless mestizo farmers who clear and occupy land for subsistence farming, local and national elites who encroach on indigenous land to engage in illegal logging, and various government entities (see Sections 1.a. and 1.f.). During the year, 12 Tolupan were killed in Yoro department in separate incidents because they opposed illegal logging and usurpation of their ancestral lands. Tolupan leaders implicated sawmill owners, police, district attorneys, and the governmental Honduran Forest Development Corporation in these murders. By the

end of the year no action had been taken in any of the cases. The Government worked with various indigenous groups on management plans for public and ancestral lands that they occupy. Expanded coverage of the national cadastral registry, property titling, and government land registries has the potential to reduce violence related to land disputes. In recent years security officials and private landowners have been accused of participating in about a dozen murders of Lencas and Garifunas in conflicts over indigenous land claims.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently causes indigenous groups to attempt to regain land through invasions of private property, which usually provoke the authorities into retaliating forcefully. The Government is somewhat responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential individuals.

During the year, the National Agrarian Institute (INA) reduced its issuance of titles to indigenous groups in the new administration because of lack of funds to compensate private owners and due to expected changes in land use laws. INA continued to play a weak role in mediating land claims of indigenous and farmer groups.

Section 6 Worker Rights

a. The Right of Association

Workers have the legal right to form and join labor unions; unions generally are independent of the Government and of political parties. Most farmer organizations are affiliated directly with the labor movement. Unions occasionally hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in the past several years. Public sector unions have greater strength than private sector unions. Companies with unions are closed shops. During the year, the International Labor Organization (ILO) noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership.

The labor movement consists of three national labor confederations: the General Council of Workers (CGT), the Confederation of Honduran Workers (CTH), and the Unitary Confederation of Honduran Workers (CUTH).

A number of private firms have instituted "solidarity" associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are employer-dominated. Because of the restriction of one union per workplace, a solidarity association can not compete with an independent union if the union is the first to be established. However, neither can a union replace a solidarity association.

The Labor Code prohibits retribution by employers for trade union activity; however, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. Workers often accept dismissal with severance pay rather than wait for a court resolution. Some foreign companies close operations when they are notified that workers seek union representation; one such case occurred during the year. The labor courts routinely consider hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. Once a union is recognized, employers actually dismiss relatively few workers for union activity. However, the right of collective bargaining is not granted easily, even once a union is recognized. Cases of firings and harassment serve to discourage workers elsewhere from attempting to organize. The ILO again reiterated its recommendation for the Government to provide for adequate protection, particularly effective and dissuasive sanctions, against acts of anti-union discrimination for trade union membership or activities and against acts of interference by employers or their organization in trade union activities.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor applied the law in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Collective bargaining agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting; however, there was credible evidence that blacklisting occurred in the assembly manufacturing for export firms, known as maquiladoras. A number of maquila workers who were fired for union activity report being hired for 1 or 2 weeks and then being let go with no explanation. Maquila employees report seeing computer records that include previous union membership in personnel records, and employers have told previously unionized workers that they are unemployable because of their previous union activity.

When a union is formed, its organizers must submit a list of founding members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. At times companies receive the list illegally from workers or from Labor Ministry inspectors willing to take a bribe. The Ministry of Labor has not always been able to provide effective protection to labor organizers. During the year the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union

organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years.

The three national labor confederations maintain close ties with various international trade union organizations.

b. The Right to Organize and Bargain Collectively

The law protects the rights to organize and to bargain collectively.

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities generally respect in practice. The civil service code denies the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. The ILO reported that federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike; the ILO asserts that these requirements restrict freedom of association.

The public sector held pervasive and long-lasting strikes throughout the year. High school teachers were on strike for more than 2 months demanding additional salary raises.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry. There are approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. There are approximately 200 export-oriented assembly manufacturing firms located inside and outside EPZs. The Honduran Association of Maquiladores (AHM) and worker representatives routinely meet to reduce potential tensions within the industry. At year's end, approximately 40 of the country's 200 maquiladora firms were unionized.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Members of AHM, both industrial park owners and company owners, are asked to sign the code of conduct to join the AHM. The conditions are not monitored or verified by the AHM, but the AHM does act as arbiter when unions, the Ministry of Labor, or other partners complain about labor conditions in a factory. Workers and supervisors were trained on the elements of this code during the year. Organized labor has equivalent rights and protection inside and outside EPZs.

In the absence of unions and collective bargaining, the management of several plants in free trade zones have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others use the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (see Section 6.e.).

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code. They criticize the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant amendment. The Ministry of Labor sought to address these deficiencies by requesting increased funding in the Government's budget, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by opening more regional offices to facilitate worker access to Ministry of Labor services, and by conducting a painstaking, ongoing review of the Labor Code since 1995. During the year the Ministry of Labor continued its work to strengthen a special maquiladora office and an office for female workers.

A 1995 Memorandum of Understanding (MOU) between the Ministry of Labor and the Office of the United States Trade Representative calling for greater enforcement of the Labor Code has resulted in some progress. However, labor unions charge that the Ministry of Labor has not made sufficient progress toward enforcing the code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August and September 2000, the Government reaffirmed its commitment to abide by the terms of the 1995 MOU and to take additional steps to strengthen enforcement of the Labor Code.

c. Prohibition of Forced or Bonded Labor

The Constitution and the law prohibit forced or bonded labor, including by children; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 14 years of age is permitted to work with parental and Ministry of Labor permission; however, child labor is a problem. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 400,000 children work illegally. The

Children's Code prohibits a child of 14 years of age or younger from working, even with parental permission, and establishes prison sentences of 3 to 5 years for persons who allow children to work illegally. This law is not enforced in practice. An employer who legally hires a 15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year. The Ministry of Labor does not enforce effectively child labor laws outside the maquiladora sector. Violations of the Labor Code occur frequently in rural areas and in small companies. Significant child labor problems exist in family farming, agricultural export (including the melon, coffee and sugarcane industries), and small-scale services and commerce. A May 2001 household survey reported that 9.2 percent of children between ages 5 and 15 were working, and that 26 percent of children ages 11 through 15 work. Many children also work in the construction industry, on family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work on lobster boats, where they dive illegally with little safety or health protection. Children who work on melon farms were exposed to pesticides and long hours.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain work permits by fraud or purchase forged permits.) During the year, one foreign firm in the maquiladora sector was reported to employ minors, and the Ministry of Labor took action to penalize the employer and assure that minors no longer work at the plant.

During the year, the new administration swore in new members of the interagency National Commission for the Gradual and Progressive Eradication of Child Labor, created in 1998. In September 2001, the employers' association launched a campaign to raise awareness of the law among its members. In May the ILO Office on the Eradication of Child Labor launched its programs focused on the eradication of the worst forms of child labor in melon and coffee production.

e. Acceptable Conditions of Work

In May minimum wages, that were renegotiated went into effect. The agreement included a voluntary price freeze on a basic basket of consumer goods and public services. During the year, however, market pressures pushed up prices leading labor leaders to protest the violation of the agreement. Daily pay rates vary by sector of the economy. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from \$2.64 to \$3.70 (43.60 to 61.23 lempiras) per day, depending on the size of the firm. The highest minimum wage is \$4.57 (75.50 lempiras) per day in the export and financial sectors. All workers are entitled to a bonus equivalent to a month's salary in June and December every year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family.

As a result of the October 2000 negotiated agreement on the minimum wage, the Government committed itself to establishing an Economic and Social Council within which the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. In March the Council was sworn in.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. The law requires overtime payment for hours in excess of the standard. There are prohibitions on excessive compulsory overtime. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoy equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor is cumbersome.

The Ministry of Labor is responsible for enforcing national occupational health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance and equipment to improve its regulatory capacity. There are 16 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 70 percent of all employment, is regulated and monitored poorly. Worker safety standards also are poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free-trade zones and in private industrial parks (see Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

Labor unions, women's groups, and human rights groups report receiving complaints from workers in textile export industries that include: illegal preemployment pregnancy tests, severely limited access to medical services, verbal abuse, no freedom to organize unions, and forced and unpaid overtime. The Ministry of Labor has increased its responsiveness to these complaints, according to the same organizations.

The Government, private sector, and worker representatives participated in a regional program to improve occupational safety and health conditions throughout Central America. This program aimed to strengthen regional labor codes and the enforcement capabilities of the Central American labor ministries in these fields.

f. Trafficking in Persons

The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. Honduras is primarily a source, but also a transit, country for trafficked children and women to neighboring countries and the United States. According to Casa

Alianza, Honduran children, especially young girls, are trafficked by criminal groups to other Central American countries for purposes of sexual exploitation. There are reports that trafficking in women and children also occurs within the country's borders. There were reports during the year that girls and women were trafficked to Guatemala, Mexico, and the United States for purposes of prostitution. An April raid in Texas uncovered a prostitution ring run by Hondurans in which more than three dozen Honduran women and girls had been trafficked to the United States and were subject to sexual exploitation and debt bondage.

Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics. Honduran authorities did not repatriate any of the minors involved despite 2000 press reports that indicated the Government was taking action. Canadian authorities cooperated with Honduras during the year to identify and repatriate the minors.

Charges were dropped in the February 2000 case of a San Pedro Sula judge accused of kidnaping six minors with intent to sell them. During the year the Government continued to work with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In 2000 a local children's rights group charged that 498 children had been reported missing from 1986 to 2000, including 22 children in 2001. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000. No more information was available on this case at year's end.

The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years imprisonment; the penalty is increased if the traffickers are government or public employees, or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration, is responsible for enforcing the country's immigration laws although it does not have arrest powers. However, corruption, a lack of resources, and weak police and court systems hinder law enforcement efforts. While traffickers have been arrested, the Government has not prosecuted any cases.

The Government does not provide economic aid to victims or potential victims of trafficking. During the year, an interagency working group to limit trafficking was inaugurated. In 2000 the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Honduras. The centers' activities continued during the year, with the assistance of several international organizations.